
Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No. FIFRA-08-2006-0010

MAR -7 AM 8:23
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:

Hylon-Koburn Chemicals, Inc.

(EPA Establishment No.: 08275-UT-1),

Respondent

CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Hylon-Koburn Chemicals, Inc., by their undersigned representatives, hereby consent and agree as follows:

1. On September 26, 2006, Complainant issued a Complaint alleging certain violations of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. section 136. The Complaint proposed a civil penalty for the violation alleged therein.

2. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.

3. This Consent Agreement, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

4. Respondent consents and agrees to pay a civil penalty in the amount of **eight thousand dollars (\$8,000)**, also referred to as the "principal penalty amount," in the manner described below this paragraph:

- a. Respondent agrees to pay the **eight thousand dollars (\$8,000)** penalty amount in eight (8) installments of **one thousand dollars (\$1,000)** each. Respondent specifically agrees that should it be delinquent with any installment payment, interest shall be calculated on the remaining unpaid balance of the particular installment payment amount from the date of the issuance of the Final Order, as set forth in paragraph 4.b. below.
- b. The first penalty installment of \$1,000 is due on or before April 1, 2007.
The second penalty installment of \$1,000 is due on or before July 1, 2007.
The third penalty installment of \$1,000 is due on or before October 1, 2007.
The fourth penalty installment of \$1,000 is due on or before January 1, 2008.
The fifth penalty installment of \$1,000 is due on or before April 1, 2008.
The sixth penalty installment of \$1,000 is due on or before July 1, 2008.
The seventh penalty installment of \$1,000 is due on or before October 1, 2008.

The eight and final penalty installment of \$1,000 is due on or before January 1, 2009.

If any of the due dates falls on a weekend or legal Federal holiday, that due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket (standard form 215) issued by the Mellon Bank described below. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day. Respondent shall make these **eight** installment payments by remitting a cashier's or certified check for the specified amount, including the name and docket number of this case (the docket number is listed in the first page of this Consent Agreement), payable to "Treasurer, United States of America," to:

Regular Mail:

Mellon Bank
Lockbox 360859
Pittsburgh, PA 15251-6859

Federal Express, Airborne, or other commercial carrier:

U.S. EPA, 360859
Mellon Client Service Center Rm 154-0670
500 Ross Street
Pittsburgh, PA 15251-6859

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004
TREAS NYC/CTR/
BNF=/AC-68010727

- c. A copy of the check shall be sent simultaneously to:

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region VIII
1595 Wynkoop Street
Denver, Colorado 80202-1129

- d. In the event payment is not received by the specified due date, the principal penalty amount shall not be increased, but interest on the remaining unpaid penalty amount shall begin to accrue from the date of the final consent order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full of the remaining penalty amount, plus interest, is received. Respondent agrees and consents that if

Respondent fails to pay the penalty amount on the due dates set forth in paragraph 4b. above, any unpaid balance thereof, shall become due and owing by the Respondent, or EPA, in its sole discretion, may waive all or part of such acceleration and or such interest payment.

- e. In addition, in the event an installment payment is not received by the specified due date specified in paragraph 4.b., a handling charge of fifteen dollars (\$15) shall be assessed upon the date of the installment payment default, and each subsequent thirty (30) day period thereafter that the default installment payment debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal penalty amount if payment is not received within 90 days of the date the installment payment default occurred. Payments are applied in the following order: (i) handling charges, (ii) the six percent (6%) penalty interest, (iii) late interest; and (iv) the balance to any outstanding principal penalty payment amount. EPA, in its sole discretion, may waive all or part of the handling charge(s) and or such interest payment.
- f. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

5. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with FIFRA and its implementing regulations.

6. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of this Consent Agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

7. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.

8. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind the party he/she represents to the terms and conditions of this Consent Agreement.

9. Each party shall bear its own costs and attorney fees in connection with this matter.

10. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

11. This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint. In consideration for entering into this Consent Agreement and for Complainant's performance under this Consent Agreement, Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

In the Matter of: HYLON-KOBURN CHEMICALS, INC.
Docket No: Docket No. FIFRA-08-2006-0010
(Continued)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8, Office of Enforcement, Compliance
and Environmental Justice, Complainant.

Date: 5 March 2007

By: Elisabeth Evans
Elisabeth Evans, Director
Technical Enforcement Program

Date: 3/6/07

By: David Janik
David Janik, Supervisor
Legal Enforcement Program

Date: 3/5/2007

By: Eduardo Quintana
Eduardo Quintana, Senior Attorney
Legal Enforcement Program


In the Matter of: HYLON-KOBURN CHEMICALS, INC.
Docket No: Docket No. FIFRA-08-2006-0010
(Continued)

**Hylon-Koburn Chemicals Inc.,
Respondent.**

Date: 2-28-07

By:

Name, Title:

 John Hille Vice President

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT** in the matter **HYLON-KOBURN CHEMICALS, INC., DOCKET NO.: FIFRA-08-2006-0010** was filed with the Regional Hearing Clerk on March 7, 2007, the **FINAL ORDER** was filed on March 9, 2007.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to Eduardo Quintana, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on March 9, 2007, to:

Loyal Hulme, Esq.
Kirton & McConkie
60 East South Temple, Suite 1800
P. O. Box 45120
Salt Lake City, UT 84145-0120

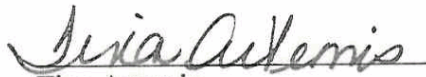
Pouch and e-mailed to:

Honorable Barbara A. Gunning
Administrative Law Judge (1900L)
U. S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

And e-mailed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center Accounting
Angel.michelle@epa.gov

March 9, 2006


Tina Artemis
Paralegal/Regional Hearing Clerk



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